

FCC MAIL SECTION

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DISPATCHED BY

MM Docket No. 92-8

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Stock Island, Florida)

RM-7713

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: December 11, 1992; Released: January 12, 1993

By the Chief, Allocations Branch:

1. Pursuant to the request of S-3 Communications Corporation ("S-3"), the Commission has before it the *Notice of Proposed Rule Making*, 7 FCC Rcd 667 (1992), issued in response to a petition for rule making proposing the allotment of Channel 248A to Stock Island, Florida, as that community's first local broadcast service. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted.<sup>1</sup> Key West Communications, Inc. ("Key West"), licensee of Station WOZN-FM, Key West, Florida, filed opposing comments. S-3 filed reply comments.

2. Key West argues that Stock Island is not a community for allotment purposes. It includes a letter from the Planning Department of the City of Key West stating that Stock Island lies within two jurisdictions. North Stock Island, which contains the elementary school, the hospital and the Junior College which S-3 claims is located in Stock Island, is part of the city of Key West. It claims that principal installations on North Stock Island include a community college, an elementary school, a municipal golf course, a County Detention Center, the Health System/Florida Keys Facility (formerly Florida Keys Memorial Hospital) the Key West Convalescent Center, the Monroe County Animal Shelter, the Center of Hope, and the Key West Botanical Garden. South Stock Island, claims Key West, is under the jurisdiction of unincorporated Monroe County and is predominantly residential, with some commercial, industrial and marina activities.

3. Key West claims that Stock Island is not a politically independent community. It submits that the local telephone book reveals virtually no commercial or cultural establishments that identify with "Stock Island." The white

pages of the telephone directory identify only four entities whose names begin with "Stock Island." The "Churches" portion of the yellow pages shows one church located on Stock Island, and that is the Key West Baptist Temple. Key West contends that no civic clubs or business organizations are identified with Stock Island. Key West maintains that the integration of Stock Island with the city of Key West is also demonstrated by the fact that the transmitter of Key West Stations WKWF(AM), WAIL(FM), WKRY(FM), and WOZN(FM) are located on Stock Island. All eight stations licensed to Key West provide both transmission and reception service to the residents on Stock Island. Key West notes that the allotment of Channel 248A at the proposed reference coordinates would place the transmitter site in Key West, rather than in Stock Island.<sup>2</sup>

4. In response to Key West's comments S-3 submits a letter from the Chief of Stock Island's Volunteer Fire Department stating that Stock Island is located in unincorporated Monroe County and is an entity with over two thousand residential units. The Chief notes that the Stock Island Volunteer Fire Department has been in existence for thirteen years. The letter also states that there is a Stock Island Businessman's Association, a Stock Island Mobile Home Owners Association, and a Stock Island Neighborhood Improvement Program. The letter claims that there are "numerous commercial and industrial businesses, many of which have moved out of the city of Key West" but retain Key West in their names for business purposes.

5. Based upon the showing submitted by Key West, we do not believe that Stock Island is a "community" for allotment purposes. Stock Island is a Census Designated Place ("CDP") as defined by the U.S. Census. The designation of an area as a CDP raises the presumption that an area is a community for allotment purposes, that presumption is rebuttable. *See, e.g., East Hemet, California, et. al.*, 4 FCC Rcd 7895 (1989); *Hannahs Mill, and Milledgeville, Georgia*, 7 FCC Rcd 3944 (1992). S-3 has stated that Stock Island has a volunteer fire department, a businessman's association and a neighborhood improvement program. However, S-3 has not shown that these organizations are intended to serve the needs of Stock Island, as opposed to the nearby area of Key West. Furthermore, S-3 has failed to identify any other businesses or political, social and commercial organizations which identify themselves with Stock Island. In the past, the Commission has rejected claims of community status where a connection has not been shown between political, social and commercial organizations and the community in question.<sup>3</sup> *See Gretna, Marianna, Quincy and Tallahassee, Florida*, 6 FCC Rcd 633 (1991) and cases cited therein. Nor has S-3 provided testimony of local residents attesting to Stock Island's community status. *See Memorandum Opinion and Order (Semora, North Carolina)*, 5 FCC Rcd 934 (1990). We believe that the record in this proceeding is insufficient to find that Stock Island is a community for allotment purposes. Therefore, we will not allot Channel 248A to Stock Island, Florida.

<sup>1</sup> Petitioner also filed a motion for extension of time to file reply comments. That motion is moot, given that S-3 timely filed reply comments.

<sup>2</sup> Finally, Key West argues that the radio market in the area is already saturated. S-3 correctly notes in response that this claim is not a relevant factor in an allotment proceeding. *See Subur-*

*ban Community Policy, The Berwick Doctrine, and the Defacto Reallocation Policy*, 93 FCC 2d 436 (1983).

<sup>3</sup> It appears, for instance, that there is no local government in Stock Island. As we stated in the *Notice of Proposed Rule Making*, Key West is the postal facility for Stock Island.

6. IT IS FURTHER ORDERED, That the request of S-3 Communications Corporation for the allotment of Channel 248A to Stock Island, Florida (RM-7713) IS DENIED.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

FEDERAL COMMUNICATIONS COMMISSION

Michael C. Ruger  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau